

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0589
Adjusted Gross and Supplemental Net Income Tax
Calendar Years Ended 1993, 1994, and 1995

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ISSUE(S)

I. **Adjusted Gross and Supplemental Net Income Tax**—Unrelated business income

Authority: IC 4-32-9-2; IC 4-32-11-3; IC 4-32-9-17; 45 IAC 18-5-1; IC 6-3-2-3.1

Taxpayer protests the department's calculation and assessments of Indiana income taxes.

STATEMENT OF FACTS

Taxpayer was first issued a Bingo License Number on July 1, 1992 which expired on June 30, 1993. Taxpayer sells pull-tabs, punch boards, and tip boards only and does not operate bingo. The 1993 Indiana Annual Bingo License Financial Report was submitted to the Department and returned for lack of information. Taxpayer had no further communication with the Department and did not attempt to obtain the required Charity Gaming License until February 4, 1996 after the department issued its Subpoena Duces Tecum to one of its suppliers on December 14, 1995.

The unrelated business taxable income was based upon the reconstructed supplier records and best available information. The Department credited the total assessment for the charity gaming payouts. Taxpayer was billed adjusted gross income tax, supplemental net income tax, a ten percent (10%) penalty, and updated interest.

I. **Adjusted Gross Income** – Unrelated business income

DISCUSSION

Taxpayer, in a letter dated November 27, 1996, protested the calculation of the income taxes as imposed by the Department of Revenue and states the amount of gross sales does not compare with the amount of gross sales shown on Form 990 for all years of the audit. Further, the taxpayer states that it appears the amounts differ quite substantially and requested a recomputation of the gross sales. In a

letter dated November 2, 1998, the Department asked for documentation in order to reduce the assessment and cited 45 IAC 18-5-1 which states in part, that if an organization conducts unauthorized charity gaming activities, the income will be considered unrelated income and subject to Indiana gross income tax, adjusted gross income tax, and supplemental net income tax. On December 28, 1998, the Hearing Officer advised the taxpayer's representative that a hearing was scheduled for January 19, 1999 to allow the taxpayer the opportunity to prove the investigation was in error. No one appeared at the hearing; however, the taxpayer's representative called and advised there was no additional information.

The taxpayer maintained inaccurate records. Charity gaming income was commingled with the taxpayer's general account. Neither a separate checking account nor a separate ledger was maintained for the charity gaming financial activities. Taxpayer's gaming license expired on June 30, 1993 and it did not apply for a renewal of its license until February 4, 1996.

Taxpayer has not provided sufficient proof or support that the assessment is in error, therefore, its protest is denied.

FINDING

Taxpayer's protest is denied.